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Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

Federal Communications Commission  
Office of Secretary

In the Matter of

DOCKET FILE COPY ORIGINAL

Amendment of Section 73.202(b),  
Table of Allotments, FM Broadcast Stations.  
(Glenville, Weaverville, and Clyde, North  
Carolina; Tazewell, Tennessee)

) MB Docket No. 02-352  
) RM-10602  
) RM-10776  
) RM-10777  
)  
)  
)

Amendment of Section 73.202(b),  
Table of Allotments, FM Broadcast Stations.  
(Elberton and Union Point, Georgia)

) MB Docket No. 05-191  
) RM-11243  
)

Directed to: Chief, Media Bureau (Audio Division)

**REQUEST FOR LEAVE TO SUPPLEMENT AND SUPPLEMENT TO  
JOINT REQUEST FOR APPROVAL OF UNIVERSAL SETTLEMENT**

On September 19, 2005, Glenville Radio Broadcasters ("GRB"), Stair Company, Inc. a/k/a The Stair Company ("Stair"), licensee of WCTU(FM), Tazewell, TN ("WCTU"), Georgia Carolina Radiocasting Company, LLC ("GCRC") and Frank McCoy ("McCoy"), collectively all of the parties to the above-captioned proceedings proposing amendments to Section 73.202(b) of the Commission's Rules, the Table of Allotments for FM Broadcast Stations, submitted their "Joint Request for Approval of Universal Settlement" ("Joint Request"), pursuant to the Commission's *Public Notice*, DA 05-1688, released June 20, 2005, and Section 73.3525 of the Commission's Rules.<sup>1</sup> Attached to the Joint Request was a copy of the "Settlement Agreement" among the parties. That copy, however, omitted a copy of the executed signature page for one of the parties.

<sup>1</sup> By Public Notice, DA 05-2476 dated September 21, 2005, the Commission extended the deadline for filing universal settlements to October 3, 2005.

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The Joint Request is hereby supplemented to provide a complete copy of the Settlement Agreement which includes the previously omitted signature page together with those previously provided. To the extent necessary, the parties request leave to submit this Supplement so that the Commission may have a complete record. Further, as noted in Footnote 1 above, the time for filing universal settlements was extended to October 3, 2005. Accordingly, the public interest will be served by acceptance of this supplement. GRB, Stair, GCRC, and McCoy also renew their request that the Joint Request be granted and that the necessary actions to effectuate the Settlement Agreement attached hereto be taken.

Respectfully submitted,

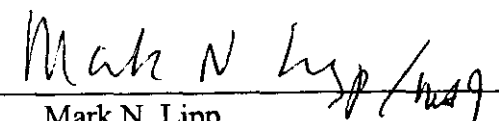
**GLENVILLE RADIO BROADCASTERS**

By:   
John C. Trent

Putbrese, Hunsaker & Trent, P.C.  
200 S. Church Street  
Woodstock, Virginia 22664

Its Attorney

**STAIR COMPANY**

By:   
Mark N. Lipp

Vinson & Elkins, LLP  
The Willard Office Building  
1455 Pennsylvania Avenue, N.W.  
Suite 600  
Washington, D.C. 20004

Its Attorney

By: Frank R. Jazzo  
Frank R. Jazzo  
M. Scott Johnson

Fletcher, Heald & Hildreth, P.L.C.  
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Arlington, VA 22209

Its Attorneys

**GEORGIA-CAROLINA RADIOCASTING  
COMPANIES**

By: Michael H. Shacter  
John F. Garziglia  
Michael H. Shacter

Womble Carlyle Sandridge & Rice, PLLC  
1401 I Street, N.W.  
Suite 700  
Washington, D.C. 20005

Its Attorneys

**FRANK McCOY**

By: Lauren A. Colby  
Lauren A. Colby

10 East 4<sup>th</sup> Street  
Frederick, MD 21701

His Attorney

September 29, 2005

## SETTLEMENT AGREEMENT

[WCTU]

**THIS SETTLEMENT AGREEMENT** is made and entered into effective as of the 19th day of September, 2005, by and among Glenville Radio Broadcasters ("GRB"), Stair Company, Inc. a/k/a The Stair Company ("Stair"), licensee of WCTU(FM), Tazewell, TN ("WCTU"), Georgia Carolina Radiocasting Company, LLC ("GCRC") and Frank McCoy ("McCoy").

### **WITNESSETH:**

**WHEREAS**, GRB is the petitioner in Federal Communications Commission ("FCC") Rule Making proceeding RM-10602, MB Docket No. 02-352 (the "Rule Making"), proposing the allotment of Channel 289A at Glenville, NC (the "Proposal");

**WHEREAS**, Stair and GCRC have each filed comments and mutually-exclusive counterproposals in the Rule Making, Stair proposing to allot FM Channel 290C2 to Weaverville, NC, (the "Stair Counterproposal" and GCRC proposing to allot FM Channel 290A to Clyde, NC (the "GCRC Counterproposal");

**WHEREAS**, on June 20, 2005, the FCC released a *Public Notice* (DA 05-1688) ("Window Announced for Universal Settlements of Pending Rulemaking Proceedings to Amend FM Table of Allotments) wherein it stated, *inter alia*, that (a) it would process universal settlements received on or before September 19, 2005, and (b) in connection therewith it would waive the reimbursement limitations set forth in Section 73.3525(a)(3);

**WHEREAS**, the parties believe that the public interest will best be served if the mutual-exclusivity of their proposals is resolved by amicable agreement since such resolution (a) is consistent with the FCC's June 20, 2005 *Public Notice*, (b) will conserve the resources of the parties (as well as of the FCC), and (c) will hasten inauguration of a first local broadcast radio service to Weaverville, NC more quickly than would otherwise be possible.

**WHEREAS**, McCoy has filed comments in Docket 05-191, RM-11243 opposing the petition of GCRC to relocate Station WL VX, from Elberton, Georgia, to Union Point, Georgia ("WL VX Rule Making").

**NOW, THEREFORE**, in consideration of the mutual covenants, agreements, conditions, representations and warranties contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Dismissal of Proposals**. Concurrently herewith and subject to approval of this Agreement by the FCC and pursuant to the procedures set out in Section 4 hereof, (a) GRB shall file with the FCC a request to withdraw its comments and to dismiss the Proposal and (b) GCRC shall file with the FCC a request to withdraw its comments and to dismiss the GCRC Counterproposal.

2. **Consideration for GCRC's Dismissal**. As consideration for dismissal of the GCRC Counterproposal, Stair shall pay to GCRC the sum of Two Hundred Thousand Dollars

(\$200,000.00) ("Settlement Payment") within ten (10) business days following the later of a Final Order as to: (1) FCC Approval of the Joint Request referred to in Section 4 hereof, and (ii) the order assigning FM Channel 290C2 to Weaverville, NC in the FM Table of Allotments ("Weaverville Allotment"). "Final Order" shall mean action by the FCC (i) which has not been vacated, reversed, stayed, set aside, annulled or suspended; (ii) with respect to which no timely appeal, request for stay or petition for rehearing, reconsideration or review by any party or by the FCC on its own motion, is pending; and (iii) as to which the time for filing any such appeal, request, petition, or similar document or for the reconsideration or review by the FCC on its own motion under the Communications Act of 1934, as amended, and the rules and regulations of the FCC has expired. Concurrently with execution of this agreement, Stair is agreeing to deposit the Settlement Payment with Womble Carlyle Sandridge & Rice, PLLC, as escrow agent, to be held and distributed pursuant to the Escrow Agreement substantially in the form of Exhibit A hereto.

3. **Request for FCC Consent.** By September 19, 2005, the parties shall file a Joint Request for Approval of Settlement Agreement (hereinafter "Joint Request") in the form required by Section 73.3525 of the Commission's rules, requesting that the FCC issue an order or orders: (i) granting the Joint Request; (ii) dismissing the Proposal and the GCRC Counterproposal; and (iii) allotting FM Channel 290C2 to Weaverville, NC; and (iv) modifying the license of WCTU to operate on Channel 290C2 at Weaverville, NC. The parties shall in good faith pursue approval by the FCC of the Joint Request and shall cooperate fully with each other and with the FCC and take whatever additional action is necessary or appropriate to obtain FCC approval of, and to effectuate, this Settlement Agreement. No party to this Agreement shall take any action which is materially inconsistent with its obligations under this Agreement or that would hinder or delay approval of the Settlement Agreement, the Joint Request or any action or transaction contemplated by this Agreement. Moreover, without limitation of the foregoing, neither GRB nor GCRC shall submit any amendment, application, petition, pleading, or other document of any type to the FCC or any other governmental authority (i) that is inconsistent with the terms of this Agreement; (ii) that would diminish or delay the timely grant of the Stair Counterproposal, Weaverville Allotment, or any resulting application for a construction permit for modification to WCTU at Weaverville or subsequent application for a license application for a license reflecting the approved facilities. This provision shall be enforceable by injunction, specific performance and other enforcement provision of Section 9 below and, should GRB or GCRC violate this section, they shall, in addition to any damages arising from actions under Section 9 below, be liable to disgorge the Settlement Payment, and shall pay damages to Stair or its assignee of an amount of not less than One Million Dollars (\$1,000,000) without proof by Stair of having incurred damages in such amount.

4. **Condition Precedent.** Concurrently herewith, Sutton Radiocasting Corporation, an affiliate of GCRC and licensee of WNCC-FM, Franklin, NC, is entering into a Settlement Agreement (the "WOXL Settlement Agreement") with Liberty Productions, a Limited Partnership, licensee of WOXL-FM, Biltmore Forest, NC ("WOXL"), Saga Communications of North Carolina, LLC, and Ashville Radio Partners, LLC, to withdraw its Petition for Reconsideration of the grant of application for assignment of license to Saga Communications of North Carolina, LLC (BALH-20040116ACT) and its application for Class C3 license (File No. BLH-20020220AAL). The obligations of the parties hereto are conditioned upon the performance of the obligations of the parties to the WOXL Settlement Agreement.

5. **Additional Agreement of McCoy.** McCoy shall withdraw his comments and any other filings, if any, in opposition to the petition of GCRC in the WLVX Rule Making.

6. **Authorization and Binding Obligation.** The parties represent to one another that they each have the power and authority to enter into and carry out this Settlement Agreement and that this Settlement Agreement constitutes the valid and binding obligation of each of them in accordance with its terms.

7. **Notices.** Any notice, consent, waiver or other communication hereunder shall be sent by nationally recognized overnight air courier service, so that delivery is made the next business day, to all parties and counsel at the addresses specified below (or at such other address which party shall specify to the other party in accordance herewith):

**If to GRB:**

Glenville Radio Broadcasters  
c/o John C. Trent, Esq.  
Putbrese, Hunsaker & Trent, P.C.  
100 Carpenter Drive, Suite 100  
P.O. Box 217  
Sterling, Virginia 20167-0217

**If to Stair:**

Stair Company  
Attention: James Stair  
3223 West Wolf Valley Road  
Clinton, TN 37716

with a copy to:

Mark N. Lipp, Esq.  
Vinson & Elkins, LLP  
The Willard Office Building  
1455 Pennsylvania Ave., NW  
Suite 600  
Washington, DC 20004-1008

**If to McCoy:**

Frank McCoy  
24180 Forest Drive  
Forest Lake, IL 60047

With a copy to:

Lauren A. Colby, Esq.

10 East 4<sup>th</sup> Street  
Frederick, MD 21701

**If to GCRC:**

Douglas M. Sutton, Jr.  
Georgia-Carolina Radiocasting Companies  
P.O. Drawer E  
Toccoa, GA 30577

with a copy to:

John F. Garziglia, Esq.  
Michael H. Shacter, Esq.  
Womble Carlyle Sandridge & Rice, PLLC  
1401 I Street, N.W. Suite 700  
Washington, DC 20005

8. **Entire Agreement.** This Agreement constitutes the entire understanding of the parties. There are no other agreements, representations, warranties or understandings (oral or written) between them with respect to the subject matter hereof, and no other consideration, action or forbearance is contemplated or relied upon by them. This Agreement may not be altered, amended or modified except by a written instrument signed by all parties.

9. **Enforcement.** In the event that either party refuses to cooperate in seeking to effectuate this Settlement Agreement, the other parties shall have available all remedies to which it is entitled under law or at equity, and the rules, regulations and policies of the Federal Communications Commission, including any and all rights to the remedy of specific performance. Notwithstanding other rights reserved to the parties pursuant to this Settlement Agreement, the parties agree that the failure of either party to perform its obligations and covenants under this Settlement Agreement is one for which there is no adequate remedy at law, and either party may seek injunctive relief and/or specific performance requiring the other party to perform its obligations hereunder. Should the parties engage in litigation arising out of this Settlement Agreement, the prevailing party in such litigation shall be entitled to reasonable attorneys' fees and costs as shall be determined by the court.

10. **Assignment and Binding Effect.** This Agreement shall inure to the benefit of, and shall be binding upon, the parties and their heirs, successors, executors, legal representatives and assigns, provided however that no party may voluntarily assign this Settlement Agreement without the express written consent of the other parties, such consent not to be unreasonably withheld.

11. **Construction.** The event that any of the provisions contained in this Settlement Agreement is held to be invalid, illegal or unenforceable shall not affect any other provision hereof, and this Settlement Agreement shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein. Further, this Settlement Agreement is the product of negotiation and preparation by and between the parties, and their respective

attorneys. Accordingly, the parties acknowledge and agree that this Settlement Agreement shall not be deemed prepared or drafted by one party or another (or the attorneys for one party or another) and shall be construed accordingly.

12. **Headings**. The headings herein are included for ease of reference only and shall not control or affect the meaning or construction of the provisions of this Agreement.

13. **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina (without application of conflicts of laws principles), the Communications Act of 1934 (as amended) and the Rules and Regulations of the Federal Communications Commission. The parties agree to accept the jurisdiction of the courts of the State of North Carolina for the resolution of any disputes under this Agreement.

14. **Counterparts**. This Settlement Agreement may be signed by the parties in any number of counterparts with the same effect as if the signature of each such counterpart were upon the same instrument, and each executed copy shall be an original for all purposes without accounting for the other copies. Copied and/or faxed signature pages may be deemed originals for the purposes of this Settlement Agreement (i.e., with the underlying original signature page to be supplied to the FCC upon request). This Settlement Agreement shall be effective as of the date on which the executed counterparts are exchanged by the parties.

**[NEXT PAGE IS THE SIGNATURE PAGE ONLY]**



IN WITNESS WHEREOF, the parties have executed this Settlement Agreement or have caused this Settlement Agreement to be executed on their behalf to be effective as of the date first set forth above.

**GLENVILLE RADIO BROADCASTERS**

By: \_\_\_\_\_

**STAIR COMPANY, INC.**

**AKA THE STAIR COMPANY**

By: \_\_\_\_\_

**GEORGIA CAROLINA RADIOCASTING  
COMPANY, LLC**

By: \_\_\_\_\_

**FRANK MCCOY**

By: \_\_\_\_\_

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IN WITNESS WHEREOF, the parties have executed this Settlement Agreement or have caused this Settlement Agreement to be executed on their behalf to be effective as of the date first set forth above.

**GLENVILLE RADIO BROADCASTERS**

By: 

**STAIR COMPANY, INC.**

**A/K/A THE STAIR COMPANY**

By: \_\_\_\_\_

**GEORGIA CAROLINA RADIOCASTING  
COMPANY, LLC**

By: \_\_\_\_\_

**FRANK MCCOY**

By: 

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement or have caused this Settlement Agreement to be executed on their behalf to be effective as of the date first set forth above.

**GLENVILLE RADIO BROADCASTERS**

By: \_\_\_\_\_

**STAIR COMPANY, INC.**

**A/K/A THE STAIR COMPANY**

By: \_\_\_\_\_

**GEORGIA CAROLINA RADIOCASTING  
COMPANY, LLC**

By: \_\_\_\_\_

  
Managing Member

**FRANK MCCOY**

By: \_\_\_\_\_

## DECLARATION

I, Frank McCoy, hereby declare and state as follows:

I have entered into a Settlement Agreement with Glenville Radio Broadcasters ("GRB"), Georgia Carolina Radiocasting Company, LLC ("GCRC") and Frank McCoy ("McCoy").

GRB is the petitioner in Federal Communications Commission ("FCC") Rule Making proceeding RM-10602, MB Docket No. 02-352 (the "Rule Making"), proposing the allotment of Channel 289A at Glenville, NC (the "Proposal"). Stair and GCRC have each filed comments and mutually-exclusive counterproposals in the Rule Making, Stair proposing to allot FM Channel 290C2 to Weaverville, NC, (the "Stair Counterproposal" and GCRC proposing to allot FM Channel 290A to Clyde, NC. McCoy has filed comments opposing the petition of GCRC to relocate Station WLVX, from Elberton, Georgia, to Union Point, Georgia ("WLVX Rule Making"). The Settlement Agreement will, upon approval of the FCC, allow grant of the Stair Counterproposal and withdrawal of McCoy's comments opposing the WLVX Rule Making, thereby clearing the way for that rule making proceeding to go forward.

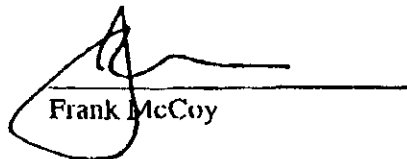
I did not file my comments opposing the WLVX Rule Making for the purpose of entering into or carrying out a settlement agreement.

Aside from as set forth in the Settlement Agreement, I have neither paid nor promised to pay any consideration, direct or indirect, to any other party to the above-described proceedings. Aside from as set forth in the Settlement Agreement, I have neither been paid nor promised any consideration, direct or indirect, by any other party to the above-described proceedings.

The public interest will be served by approval of the Settlement Agreement submitted herewith because the scarce FCC resources will be preserved and because it will expedite the implementation of enhanced radio service.

All statements made herein are true and correct and are made under penalty of perjury.

Signed and dated this 2<sup>nd</sup> day of September, 2005.

  
Frank McCoy

DECLARATION

I, James F. Stair, hereby declare and state as follows:

I am the President and majority stockholder of Stair Company, Inc. a/k/a The Stair Company, licensee of WCTU(FM), Tazewell, Tennessee. Stair has entered into a Settlement Agreement with Glenville Radio Broadcasters ("GRB"), Georgia Carolina Broadcasting Company, LLC ("GCRC") and Frank McCoy ("McCoy").

GRB is the petitioner in Federal Communications Commission ("FCC") Rule Making proceeding RM-10603, MB Docket No. 02-352 (the "Rule Making"), proposing the allotment of Channel 289A at Glenville, NC (the "Proposal"). Stair and GCRC have each filed comments and mutually exclusive counterproposals in the Rule Making, Stair proposing to allot FM Channel 290C2 to Weaverville, NC, (the "Stair Counterproposal") and GCRC proposing to allot FM Channel 290A to Clyde, NC. McCoy has filed comments opposing the petition of GCRC to relocate Station WLXX, from Elberton, Georgia, to Union Point, Georgia ("WLXX Rule Making"). The Settlement Agreement will, upon approval of the FCC, allow grant of the Stair Counterproposal and withdrawal of McCoy's comments opposing the WLXX Rule Making, thereby clearing the way for that rule making proceeding to go forward.

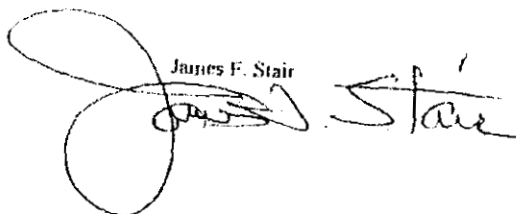
Stair did not file the Stair Counterproposal for the purpose of entering into or carrying out a settlement agreement.

Aside from as set forth in the Settlement Agreement, neither Stair nor its principals have either paid nor promised to pay any consideration, direct or indirect, to any other party to the above-described proceedings. Aside from as set forth in the Settlement Agreement, neither Stair nor its principals have either been paid nor promised any consideration, direct or indirect, by any other party to the above-described proceedings.

The public interest will be served by approval of the Settlement Agreement submitted herewith because the scarce FCC resources will be preserved and because it will expedite the implementation of enhanced radio service.

All statements made herein are true and correct and are made under penalty of perjury.

Signed and dated this 12<sup>th</sup> day of September, 2005.

James F. Stair  


**CERTIFICATION OF GEORGIA CAROLINA RADIOCASTING COMPANY, LLC**

The undersigned, Douglas M. Sutton, Jr., Managing Member of Georgia Carolina Radiocasting Company, LLC ("GCRC"), hereby states as follows in connection with GCRC's withdrawal of its Comments and Counterproposal in MB Docket No. 02-352 (the "Proceeding"):

1. Pursuant to a Settlement Agreement (the "Settlement Agreement"), dated as of September 19, 2005, among GCRC, Glenville Radio Broadcasters ("GRB"), Stair Company, Inc. a/k/a The Stair Company ("Stair"), licensee of WCTU(FM), Tazewell, TN ("WCTU"), and Frank McCoy ("McCoy"), GCRC is agreeing to withdraw its comments and dismiss its counterproposal in the Proceeding.

2. Stair is depositing \$200,000 in escrow as consideration for the withdrawal by GCRC of the comments and dismissal of the counterclaim, pending satisfaction of certain conditions described in the Settlement Agreement. Upon satisfaction of the conditions, the escrow deposit and accrued interest will be paid to GCRC.

3. Pursuant to the *Public Notice*, DA 05-1688, which established a window during which similarly situated parties might reach a settlement, the Commission has indicated that it will waive the restrictions on settlement payments to parties reaching universal settlements of rule making proceedings to amend the FM Table of Allotments during this window.

4. There are no oral agreements related to GCRC's withdrawal of its comments and counterproposal in the Proceeding

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 19th day of September, 2005.



Douglas M. Sutton, Jr., Managing Member  
Georgia Carolina Radiocasting Company, LLC

CERTIFICATE OF SERVICE

I, Michelle Brown Johnson, a secretary at the law firm of Fletcher, Heald & Hildreth, P.L.C., do hereby certify that true copies of the foregoing SUPPLEMENT TO JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT was mailed, U.S. first class mail, postage prepaid, on this 29th day of September, 2005, addressed to the following:

Stephen T. Yelverton, Esq.  
Yelverton Law Firm, P.L.L.C.  
601 Pennsylvania Avenue, N.W.  
Suite 900  
Washington, D.C. 20004

  
Michelle Brown Johnson